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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 8 August 1997, at 3 p.m.

Chairman: Mr. BENGOA

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

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The meeting was called to order at 3.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/1997/4, E/CN.4/Sub.2/1997/5, E/CN.4/1998/3-E/CN.4/Sub.2/1997/35 and Corr.1, E/CN.4/1998/4-E/CN.4/Sub.2/1997/36, E/CN.4/Sub.2/1997/37)

1. Mr. HASSAN (Observer for Jordan) said that Jordan attached great importance to the search for a just, lasting and comprehensive peace in the Middle East to save the peoples in the region from the wars, misery, desperation, poverty and insecurity in which they had lived for so many decades.

2. Jordan was most concerned at the increasing deterioration of the situation in the Arab territories occupied by Israel, including Palestine and East Jerusalem, and by the constant setbacks the peace process had suffered recently. Continued violations of the human rights and fundamental freedoms of the Palestinian people and the policy pursued by Israel, which had derailed the peace process, were increasing the frustration and desperation of the Palestinians and Arabs, and had allowed extremists on both sides to combine forces to try to kill off the peace process and assuage their feelings of hate. Of course, acts of terrorism aimed at innocent victims must be dealt with sternly, but collective punishments, mass arrests and torture were not the most effective ways to combat terrorism and only served to engender violence and instability. Only serious dialogue, cooperation based on mutual respect and a full commitment to ensuring the honest implementation of the peace agreements could guarantee security. The Israeli Government bore a great responsibility in the fight against extremism and it should ensure the speedy progress of peace talks while facilitating the prospects for coexistence by safeguarding the dignity and basic rights of Palestinians.

3. Much attention had recently been focused on Muslim and Arab extremism, particularly in the occupied territories, but little had been said about the extremism, religious intolerance and racism against Arabs and Muslims in those territories. That was a very dangerous phenomenon which it would be perilous to neglect, particularly since the majority of the extremists lived in settlements on the West Bank, in the midst of Arab population centres, and since their presence was a constant source of friction and violence. His Government urged the Israeli Government to end its settlement policy and collective punishment, to implement the agreements reached with the Palestinians and to make progress in discussions on other aspects of the Arab-Israeli peace talks. That was the only real way to revive the prospects of a lasting, comprehensive and just peace which would allow the peoples in the region to live together in security and fully enjoy their basic rights.

4. Mrs. EIVAZOVA (Observer for Azerbaijan) recalled that the Universal Declaration of Human Rights, the fiftieth anniversary of which would soon be celebrated, had played a major role in the protection of human rights in the world since the Second World War. Article 1 of the Declaration stated: "All human beings are born free and equal in dignity and rights. They are endowed

with reason and conscience and should act towards one another in a spirit of brotherhood." However, bloody conflicts were tearing apart several regions in the world and aggressive nationalism, religious and political extremism, terrorism and separatism were threatening the international order and the security and stability of many countries.

5. The armed aggression of Armenia against Azerbaijan, motivated entirely by territorial claims, had resulted in gross and flagrant violations of the human rights of the Azerbaijani people, including ethnic cleansing, massacres and other crimes that could be classed as crimes against humanity. That undeclared war had lasted about a decade and had killed 20,000 people in Azerbaijan and left 50,000 wounded and more than 1 million refugees and displaced persons, most of whom continued to live in tents or shelters in unacceptable conditions. Twenty per cent of the territory of Azerbaijan was occupied by Armenian armed forces, and over 900 villages had been looted and burned down. Over 9 million square metres of civilian housing, businesses and social facilities, as well as archeological, cultural and religious monuments, had been destroyed. The war was taking up a large part of the public budget and the national economy was suffering enormously.

6. She then raised the question of missing persons, numbering 5,000, most of them women, children and old people. Nine hundred of them were in Armenia or in occupied Azerbaijani territories where the majority were being detained by the Armenian authorities without the knowledge of the International Committee of the Red Cross (ICRC), and did not appear on that organization's list. Despite the repeated demands of the Security Council in its four resolutions on the matter, which called for the immediate and unconditional withdrawal of all occupying forces from the occupied territories of Azerbaijan and for the return of refugees and displaced persons to their homes, Armenia was increasing its military presence and building up its military potential with a view to launching a new offensive against Azerbaijan. Moreover, despite the ceasefire agreed between the two countries, which had been in force for over three years, Armenia had illegally received arms to the value of over US$ 1 billion from Russia in the previous two years. It was nevertheless clear that the resolution of the conflict between the two countries must involve the implementation of the Security Council resolutions and acceptance of the principles proposed at the most recent summit of the Organization for Security and Cooperation in Europe, held in Lisbon, by that organization's Chairman-in-Office and supported by all participating countries. For its part, the Azerbaijani Government was doing everything it could to reach a peaceful settlement to the conflict, which was vital if stability and security were to be established in the region.

7. Mr. GOONETILLEKE (Observer for Sri Lanka), briefly outlining important developments that had taken place since the previous session of the Sub-Commission, said that the Government of Sri Lanka had continued its policy of cooperation with all organizations concerned with the protection of human rights, particularly the mechanisms of the United Nations. Hence, the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions, Mr. Ndiaye, would be visiting Sri Lanka in September 1997. The Government of Sri Lanka would also be receiving in the weeks ahead visits from representatives of two important non-governmental organizations (NGOs), namely, Amnesty International and the Centre for the

Independence of Judges and Lawyers. He was aware of the allegations levelled against his Government by certain groups in relation to security operations carried out in the north of Sri Lanka, according to which a food embargo had been imposed on Northern Province and human rights were being abused in that region. Those allegations needed to be examined objectively and in the context of the prevailing situation in the regions involved.

8. It was well known that after the Liberation Tigers of Tamil Eelam (LTTE) had been cleared from the Jaffna peninsula in October 1995, the Tamil civilians forced to leave the region by that organization had begun to return and resettle voluntarily in Jaffna. The Government continued to assist those civilians, who numbered around half a million, by providing them with food and essential items, and many public services had been reopened. The LTTE were trying by all possible means to block the action of the Sri Lankan Government. For example, in January 1996 they had attempted to assassinate the minister in charge of the programme for rehabilitation and reconstruction in Jaffna. They had also attacked ships transporting civilians to Jaffna and had only recently refused to allow the United Nations High Commissioner for Refugees and the ICRC to escort vessels transporting displaced persons and essential supplies to Jaffna. The Government's current military operation ("Jayasikuru") had therefore become necessary to guarantee security on the land route to the north to enable the return of displaced persons and to facilitate the transportation of food and essential supplies and material necessary for reconstruction on the Jaffna peninsula.

9. The LTTE had unilaterally broken off political negotiations in 1995, openly opposed all political initiatives taken by the Government, terrorized and killed those who supported the democratic process and were the major threat to peace and security in Sri Lanka. Moreover, humanitarian organizations and the media had confirmed accounts claiming that some of the aid sent by the Government for civilians had been systematically syphoned off by the LTTE for the use of their own cadres and to raise funds for their own objectives. The LTTE had also continued to launch attacks on Muslim and Sinhalese villages bordering the Northern and Eastern Provinces, killing many innocent civilians and destroying public places and civilian facilities. In Trincomalee in July 1997, to further undermine the political process, the LTTE had assassinated two members of parliament, Mr. Thangathurai and Mr. Maharoof, both known as supporters of a negotiated settlement to the conflict.

10. The Government of Sri Lanka had adopted a number of measures to prevent human rights violations, such as the establishment of the Human Rights Commission of Sri Lanka in March 1997 and the decision to ratify the Optional Protocol to the International Covenant on Civil and Political Rights. The independent Human Rights Commission, which was headed by a retired Supreme Court judge and included representatives of minority communities, had established contact with similar independent national institutions in the region and intended to seek assistance from the United Nations Centre for Human Rights.

11. With regard to the allegations of disappearances and other abuses reported to have occurred in the Northern and Eastern Provinces, the Government had quickly established a board of investigation within the Ministry of Defence. The board had made several visits to Jaffna, heard

complaints and disposed of a number of cases by the end of June 1997. The Government had also announced its decision to set up additional high courts, including one in the district of Vavuniya, which could expedite disposal of such cases. Another high court had been in session in Colombo since February 1997, to expedite cases of arrests and detention under the Emergency Regulations and the Prevention of Terrorism Act. The objective was to limit the duration of detention of persons suspected of involvement in subversive activities and to guarantee them the right to a fair trial without undue delay. The measures taken to prevent human rights abuses would not have the desired results if those found guilty of such acts went unpunished. It was with that in mind that the decision had been taken to arraign before the High Court of Colombo nine soldiers who had allegedly been involved in the murder of Mr. Kumaraswamy and three other people in Jaffna, the indictment of military personnel in the Kumarapuram incident and the ongoing inquiries into the disappearances in Embilipitya.

12. The Government was also seeking a political solution to the "ethnic problem". The Parliamentary Select Committee on Constitutional Reforms, comprising members from all the political parties represented in the parliament, had already reviewed the majority of proposals submitted by the Government, which were aimed particularly at expanding the scope of existing fundamental rights and freedoms. The agreement signed by the Government and the main opposition party, the United National Party, in April 1997, the Presidential directive regarding the implementation of an official language policy and the endorsement of devolution proposals by the People's Alliance Party in July 1997 all represented further steps towards a peaceful solution of the "ethnic problem".

13. In conclusion, he was confident that, despite the numerous obstacles that lay in the path of a political settlement to the conflict, a solution would soon be found, given the determination shown by the Government and the support it had received from the peace-loving people of Sri Lanka.

14. Mr. JOINET began by recalling that the Sub-Commission had to accustom itself to a new situation at the current session, since the former item 6 had become item 2 (a welcome reform, since the various speakers were more readily available at the beginning of the session) and since the Commission on Human Rights, in its resolution 1997/22, had requested the Sub-Commission to refrain from considering, under the new agenda item, country situations already being examined under the public procedures of the Commission. The latter reform, about which he had his doubts, deserved credit for forcing the Sub-Commission to step out of its routine and focus on a few situations. However, it also posed some problems of interpretation, as revealed by the request at the previous meeting by the observer for Syria that the Sub-Commission should adopt a resolution on the situation in the occupied territories. That question was being discussed under the public procedures of the Commission. It would have been better if such problems of interpretation had been clarified during the vote on resolution 1997/22. The reform might prove positive in practice, but he was surprised and concerned to note that some members of the Sub-Commission would quite simply prefer to have no resolutions on countries, which was going far beyond what the Commission had requested. It would be a shame to return to the sad cold war era of the 1960s and 1970s, when only academic studies had been permissible.

15. With regard to situations, he drew the attention of the Sub-Commission to the Democratic People's Republic of Korea, where the situation was particularly serious, as Mr. Weissbrodt had pointed out in his speech. In that connection, he wished to offer due apology to Mrs. Palley, whom he had interrupted three years earlier when she had been referring to the situation of North Korean citizens assigned in somewhat obscure circumstances to lumbering regions in the territory of the Russian Federation. At the time, the Working Group on Arbitrary Detention, under his Chairmanship, had been in talks with the authorities of the Russian Federation and North Korea with a view to visiting the area. As those contacts had not eventually been followed up, it was an opportune moment to give the Sub-Commission some information on a truly worrying situation.

16. In 1967, the Soviet Union had subcontracted to North Korea, in the form of a concession, a sort of "open gulag", to which immigrant workers from North Korea, as well as some dissidents, had been sent. Theoretically volunteers, they had known nothing of the draconian living conditions in that "labour centre". Not until the end of the cold war had information begun to filter out. Forestry workers who had managed to escape had described how they had been guarded and supervised by North Korean police officers, although they were living in the territory of the USSR, and how they had been forbidden from leaving the work site, as their passports had been taken away. Discipline had been particularly harsh and punishments imposed without safeguards had been carried out in a veritable administrative detention centre. Such a situation did appear to meet the criteria set by the Commission on Human Rights, especially when, according to information provided by Amnesty International, a number of North Koreans who had requested political asylum in the Russian Federation had not only had their request rejected out of hand but, worse, had been sent back to the Democratic People's Republic of Korea. He thought that the observer for the Russian Federation might be able to shed some light on the matter.

17. The situation in some Latin American countries was also giving rise to ever greater concern. In Mexico, for example, according to information provided by many NGOs and confirmed by the press, human rights activists in particular were constantly harassed and persecuted in a climate where impunity was on the increase despite action taken by the national Human Rights Commission. It therefore appeared reasonable for the Sub-Commission to take some initiative on the matter. The same was true in the case of Colombia, although there was also good news from that country, such as the ruling of the Colombian Constitutional Court that offences constituting serious violations of human rights would no longer fall within the jurisdiction of military courts, but only within that of civil courts. Also, the President of Colombia had sacked the Commander-in-Chief of the armed forces. That was good news for the whole of South America, where all too often the military, all trained by the United States in the era of dictatorships, had obstructed the civilian power. He said that the famous American training schools could perhaps be changed into recycling centres for the military, for that was what it would take before human rights began to be respected in many of those countries.

18. Turning to a quite different subject, he said the situation in Algeria was particularly disquieting. Speaking as an independent expert, and thus emphatically not on behalf of the French Government, he said that it was not

his intention to equate the dreadful practices of terrorist groups calling themselves Islamists and personifying an all-conquering Islam with the precepts of a tolerant Islam. There was no longer any doubt that the allegations against Islamic terrorist groups were well founded and it was unfortunately on an almost daily basis that violations of physical integrity and the right to life were seen to reach the heights of brutality. In its resolution 1996/20, entitled "Human rights and terrorism", the Sub-Commission had reiterated its unequivocal condemnation of all acts, methods and practices of terrorism regardless of their motivation, in all its forms and manifestations, wherever and by whomever committed. The prevention of terrorism was, as the General Assembly had stressed in a series of resolutions, one of the most difficult undertakings in the world since, while combating terrorism, it was necessary to ensure that the basic rights of the individual were respected and safeguarded in accordance with the relevant international instruments on human rights and generally accepted international standards. Although it could not be said that the Algerian Government as such was violating human rights, it could be postulated that certain sectors of the security services were increasingly adopting short-sighted practices which could become, if they were not already, the source of serious violations. In the light of the general lack of interest at international level, the Sub-Commission would be well advised to express its concern over such practices and demonstrate its solidarity with the Algerian people, whose lives were full of anguish and suffering and who were too often called upon to choose sides in a climate of terror.

19. He went on to express full agreement with Mr. Bossuyt's view on the way in which the mandate of the Special Rapporteur on Zaire, Mr. Garretón, had been circumvented. That type of incident was alarming, as it was becoming more and more common. Only recently, the mandate of the Special Rapporteur on the situation of human rights in Burundi, Mr. Pinheiro, had also been called into question.

20. As for Europe, one could consider there was good news too, since the Commission on Human Rights, in its desire to avoid selectivity, had requested the Working Group on Arbitrary Detention to visit the detention centres for immigrants awaiting deportation in Europe.

21. Returning to the point he had raised at the beginning of his speech, regarding the limitation of the work of the Sub-Commission to carrying out studies and developing standards, he denounced the ballooning production of United Nations standards in the form of guidelines, declarations, core principles and other sets of principles, not to mention conventions and agreements. The real priority for the United Nations was no longer to develop new standards, but to ensure that existing standards were implemented. On the other hand, to give up the initiative to adopt country-specific resolutions would be a sign presaging the long-term demise of the United Nations, insofar as the Sub-Commission was a sort of indicator of the future course of the United Nations system. In reality, the problem was on a larger scale. For example, some States had tried at the previous session of the Commission to abolish or at any rate to restrict the mandate of the Working Group on Arbitrary Detention. The difficulties encountered by Mr. Garretón and Mr. Pinheiro in fulfilling their mandates resulted from the same strategy. Had not the members of the Sub-Commission once been called the "illegitimate

children" and even, by one State, the "adulterine children" of the Commission? Two attempts had already been made to abolish the Sub-Commission, at the end of the 1940s and in 1982, but without success. More than ever, the members of the Sub-Commission must be moderate but determined, to show that the United Nations was still there. In that respect, the speeches by Mr. Khalifa and Mr. Eide should be acclaimed. As Mr. Khalifa had quite rightly said, the United Nations had become a vital asset at a time when multilateralism was giving way to bilateral, not to say unilateral, diplomacy; one could cite as examples the embargo imposed by the United States on Cuba, the Helms-Burton Act and the appointment of the new Secretary-General. The United Nations was the only antidote to the hegemonic drift of globalization, for multilateralism set limits on what one country could do. The previous year, he had taken the example of Bhutan, one of the many small countries which would never have a place in any G7 or G8 but which, thanks to the United Nations, could prove that they existed. If they were not careful, the United Nations would not be abolished - for who would take that political risk? - but it would become an empty shell. And what would become of the Sub-Commission if it could no longer adopt resolutions on the human rights situation in countries?

22. He would like to ask the observer for the United States, in all seriousness and also with some emotion, whether the authorities of that country were aware that there were limits beyond which they should not go. For example, one might have thought that in return for the consensus on the appointment of the new Secretary-General the United States would finally honour its debt and pay its outstanding contributions. It had done nothing of the sort. Such behaviour had a name in criminal law. It could also be observed that in times of intense multilateral diplomatic activity, the Secretary-General was consulted less and less, while a senior American diplomat - Mr. Ross again on the previous day - engaged in a sort of "jet diplomacy" in parallel to that of the United Nations. Was the observer for the United States aware that the current financial crisis was interpreted by the members of the Sub-Commission as an expression of contempt for them? Apart from the minor practical difficulties they came across, such as the lack of pencils and paper to take notes, there was an undercurrent, or strategy, of "starving the United Nations", to use the words of Mr. Eide. By way of illustration, he related how the Special Rapporteur on the situation of human rights in the former Yugoslavia, Mr. Mazowiecki, had proposed that he (Mr. Joinet) should visit the country with him in his capacity as Chairman-Rapporteur of the Working Group on Arbitrary Detention. He (Mr. Joinet) had recognized among those taking part on the mission the name of an American diplomat who had taken an active part in the meeting of the Commission at which the resolution creating Mr. Mazowiecki's mandate had been negotiated, and pointed out to Mr. Mazowiecki that it would be, in principle, a serious mistake to travel with that person, as certain delegations would be bound to use it as an argument when the report was submitted. Mr. Mazowiecki had replied that the Centre for Human Rights lacked adequate financial resources, and the Mission of the United States had therefore offered its help by "lending someone". Thus, it created need, so that it could then come to the rescue of the Organization. That was what Mr. Eide had meant. Although he was not insisting, at least for the moment, that the Sub-Commission should react with a text, he thought that a reaction would be of great service to the United Nations and the world community.

23. Mrs. GWANMESIA said that the current discussion raised two questions: firstly, had the main objective of the creation of the United Nations in 1945 been achieved, and, secondly, if not, how could it be achieved? Mr. Guissé had rightly stressed, in an earlier speech, that since the end of the Second World War, far from promoting the interests of minorities the greatest attention appeared to have been devoted to developing weapons of destruction and thus encouraging genocide. It was, to say the least, ironic that since the creation of the Sub-Commission in 1947, its basic objectives, namely, the prevention of discrimination and the protection of minorities, had been constantly ignored.

24. With regard, more specifically, to agenda item 2, the main issue was to identify those who violated human rights and fundamental freedoms, with particular reference to colonial and other dependent countries, and those who had colonized those peoples and their purpose in doing so. Were the purposes expressed in the preamble to the Charter of the United Nations - to save succeeding generations from the scourge of war, to reaffirm fundamental human rights and the equal rights of men and women, to promote social progress and better standards of life for nations large and small, and to practise tolerance and live together in peace - genuinely being pursued? The time had come for everyone to examine their conscience, while keeping in mind that the United Nations and all its subsidiary bodies, including the Sub-Commission, had been created precisely to serve those aims. In the context of the Sub-Commission, that meant letting those who committed human rights violations know that the international community was aware of certain situations and their likely pernicious consequences. In other words, those who infringed human rights should begin to reflect and put an end to those abuses.

25. On the other hand, it was inadmissible to mislead public opinion, as Pax Christi International had done in its statement the day before on the alleged harassment of members of the democratic opposition in Indonesia, Nigeria, Cameroon, Tunisia and Peru. That organization was clearly unaware that there existed over 150 political parties in Cameroon. Article 21, paragraph 1, of the Universal Declaration of Human Rights, according to which everyone had the right to take part in the government of his country, was therefore duly respected there. Moreover, the Constitution of Cameroon, dated 18 January 1996, had established three powers. All political parties had taken part in the parliamentary elections on 17 May 1997. As some of the election results had been declared invalid by the Supreme Court, another ballot had been held on 3 August 1997, to the benefit of the opposition parties in some constituencies. What was meant by democracy? Was it not shocking that, in April, members of certain opposition parties had murdered soldiers and police officers as well as members of their families? Cameroon had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which only applied to acts committed by agents of the State, and, since December 1996, the crime of torture had been incorporated in its Criminal Code, which provided for a doubling of the sentence when the acts were committed by an agent of the State. She insisted therefore that all speakers should speak the truth and nothing but the truth, especially when colonial and dependent countries and territories were concerned, in the name of the right to objective information and in conformity with article 29, paragraph 2, of the Universal Declaration.

26. Mr. PARK said that, given the interest shown by NGOs and governmental observers in the agenda item under consideration, and on which 42 NGOs had spoken at the previous session, the Sub-Commission had made the right decision to henceforth consider that important item at the beginning of its session. That decision was all the more valid since the Commission, in its resolution 1997/22, had requested the Sub-Commission to continue to review its working methods with a view to improving its efficiency, including by facilitating the effective participation of NGOs in its work. The NGOs were undoubtedly valuable sources of information.

27. There had certainly been improvements in the human rights situation in some countries in the previous year, but in many parts of the world, civil wars, terrorism, ethnic hatred, racial conflicts, repression and religious intolerance continued, and the protection and promotion of human rights were often subordinated to other national priorities. In its most recent annual report, a well-known NGO had identified two general trends which posed a threat to human rights: the proliferation of human rights violations in armed conflicts and civil wars, and the increasing trade in weapons. In many countries, therefore, human rights still needed to be protected. Worldwide, the situation had given rise for concern in the previous year, as witnessed by the 36 country-specific resolutions adopted by United Nations bodies and by the reports submitted by human rights field officers, country representatives and thematic rapporteurs. At its forty-eighth session, the Sub-Commission had itself passed seven country-specific resolutions under the agenda item being considered. Those resolutions should be followed up by an appropriate monitoring mechanism so that the members of the Sub-Commission could know the results of the implementation of those resolutions at the beginning of the general debate on the question.

28. In conclusion, he said that the protection and promotion of human rights depended on numerous factors, but above all on the political will of countries and active international cooperation, coupled with continued earnest dialogue with the countries concerned.

29. Mr. ALI KHAN recalled that he had emphasized at the forty-eighth session the significant achievements of the Sub-Commission and also the need to institutionalize the process of introspection. He welcomed the fact that that process was already under way and the experts were effectively exchanging views. Guidelines in that regard contained in Commission resolution 1997/22 would certainly help to guide the actions of the Sub-Commission. On the eve of its fiftieth anniversary and the fiftieth anniversary of the Universal Declaration of Human Rights, the Sub-Commission must determine how it could contribute to concrete change for the better in areas where there continued to be serious problems, and how it could help victims, prevent abuses, avoid politicization and engage in a constructive dialogue which would enhance its credibility in the eyes of the Commission and the international community at large.

30. He still believed that country-specific resolutions were essentially political acts which should be left to intergovernmental bodies such as the Commission on Human Rights and the General Assembly. The Sub-Commission was a body of experts, a think-tank established primarily to support and assist the Commission on Human Rights, as emphasized by the latter in its

resolution 1997/22. The Sub-Commission was not a body for receiving complaints and passing judgement on Governments. It should seek constructive and practical solutions to specific human rights problems as well as consider situations of gross and systematic violations of those rights. However, he did not believe that the role of the Sub-Commission was exclusively of an advisory nature. The Sub-Commission's task was to prevent discrimination and protect minorities. On the basis of all the information supplied by mechanisms for the protection of human rights and by NGOs, it should produce studies and submit specific proposals to improve certain situations. It should only resort to country-specific resolutions in "exceptional" cases in which there were new and particularly grave circumstances, as recommended by the Commission.

31. The Sub-Commission was a unique body within the United Nations system. As such, it should seek innovative solutions. To do that, it must, as Mr. Eide had pointed out the day before, see violations of human rights not merely as practices to be condemned but also as problems to be solved. It must also be careful to avoid any attempt to politicize its debates, without, however, remaining silent when human rights violations did occur. It was not a matter of knowing whether allegations by NGOs were well-founded or not, or whether the Sub-Commission should make judgements on the basis of those allegations, but of knowing how to react. The credibility of the Sub-Commission depended on the confidence it enjoyed, and its dialogue with NGOs, its principal allies, was of crucial importance. It was necessary to reflect on how the positive energy of the NGOs and the expertise of members of the Sub-Commission could be channelled to find constructive solutions.

32. As Mr. Fan Guoxiang had remarked, the clashes caused by consideration of country-specific resolutions ran counter to the desired objective of promoting human rights. The discussions under the agenda item being considered had served to sensitize the international community in general, and Governments in particular, to a number of problems, including the situation in specific countries. The Sub-Commission must decide what else it could do other than adopt critical resolutions. The reforms undertaken were a first step in that direction, but there was still a long way to go.

33. Mr. EL-HAJJÉ said that international human rights law was a victory of humanity over the most hateful selfishness which had led a number of privileged people to deny other social classes their basic rights by reducing them to slavery or near-slavery. A man could now turn to the international community when the law in his own country turned him away. However, laws were not enough when the very people who had drawn them up did not hesitate to break them in defending their interests against neighbours. Despite his achievements in the areas of science, technology or the arts, man was also capable of a deadly madness, as had been seen in the former Yugoslavia, the Great Lakes region or the Middle East.

34. Those thoughts led him to broach the human rights situation in the Arab territories occupied by Israel, which was using all available means in the current international environment to force the Palestinians into exile, by depriving them of work, housing and food and by violating their places of worship. As a sponsor of the resolutions on the peace process in the Middle East, he felt let down by the current attitude of the Israeli

Government, which denied the Palestinian people's right to self-determination by refusing to sit at the negotiating table. And yet, training in the art of dialogue was vital if globalization was not to produce a new form of hegemony or domination, but rather was to bring peoples together and generally raise standards of living. With that in view, technology should be used to redistribute the means of production, share information and open up the world to isolated populations who were losing their dignity and hope.

35. Mr. TAHER (Observer for Iraq) paid tribute to the objectivity of the members of the Sub-Commission, and recalled that the promotion of human rights was the collective responsibility of the international community. In that connection, he raised the serious problem of human rights violations arising from the imposition of economic sanctions, which were a means and not an end in themselves, as Article 41 of the Charter of the United Nations made clear.

36. Iraq was the victim of a selective and improper interpretation of such measures, which had been applied systematically since August 1990 and were having a devastating effect on every aspect of life, including the right to life itself. The most recent international studies showed that Iraqi society was on the verge of collapse. According to a study carried out by the United Nations Children's Fund between 12 and 14 April 1997, the proportion of children under 5 years old suffering from chronic malnutrition had reached 27.5 per cent which was much higher than in 1991. The latest statistics of the Iraqi Ministry of Health further revealed that in May 1997 1,632 children under 5 years old had died as a result of diarrhoea, as compared with 102 in 1989, representing an increase of over 1,500 per cent. Again, in May 1997, the deaths of 1,284 people over the age of 50 had been recorded, as against only 342 in March 1989, representing an increase of over 275 per cent. In facing up to that humanitarian catastrophe, the Iraqi Government had accepted Security Council resolution 986 (1995). One could but note that the income from the authorized sales of oil had been primarily used to pay compensation and the expenses of the United Nations, with no thought for the food and health needs of the Iraqi population which had led to the adoption of that resolution. Problems were also hampering the implementation of contracts signed with foreign companies and States. Six months after the entry into force of the memorandum of understanding, foodstuffs were still not arriving. Only 50 per cent of the medicines provided for had been delivered and the execution rate of contracts signed by the Ministry of Agriculture was no higher than 0.4 per cent. Moreover, the American administration was inventing all manner of problems in order to prolong the embargo, preventing the Security Council from carrying out its duties under paragraph 22 of its resolution 687 (1991). As evidence, he cited the sacrilegious behaviour of the investigative teams in holy places, notably the incidents in the Church of Saint Joseph in June 1997, which had cleared the path for the adoption of Security Council resolution 1115 (1997). Furthermore, the ban on overflying the north and south of Iraq, decreed without the slightest legal basis by the United States and its allies, was a negation of the right to self-determination. The debate on human rights would ring hollow until an end was put to the daily violations of the rights of the Iraqi population.

37. Mrs. ARIAS-JOHNER (Observer for Colombia) said that her country was absolutely convinced of the need to strengthen the multilateral system for the promotion and protection of human rights. The Colombian President himself had

recently proposed to launch a national crusade for the defence of human rights and so put an end to violence and violations of human rights and international humanitarian law. That initiative focused on help for victims and involved closer cooperation with multilateral agencies and NGOs. With that in mind, Colombia and the United Nations High Commissioner for Human Rights had signed an agreement on the establishment of an office in Bogotá. The office had begun to do its work, with the full support of the Colombian Government, which had taken the necessary steps to ensure that all relevant public agencies cooperated with it and that it had access to the whole of the territory and the various sectors of society. Colombia had kept its side of the agreement and hoped that the Commission on Human Rights, through the Sub-Commission, would ensure the efficiency of that innovative mechanism.

38. Consolidation of the peace was an indispensable requirement for human rights to be fully respected in Colombia. President Samper was therefore prepared to sign partial agreements with rebel groups with a view to achieving national reconciliation and, above all, to ending the suffering of innocent victims. As proof of its goodwill, the Government had already reached a humanitarian agreement with the rebel group that had held 70 young Colombian soldiers as hostages for almost a year. It should be remembered that one of the factors making the conflict worse was the use by guerrillas of practices that contravened international humanitarian law, such as kidnapping, the destruction of pipelines (causing economic and ecological catastrophes), the use of anti-personnel landmines or the recruitment of children. To combat that phenomenon, it was vital that the public and the international community should remain vigilant. The Colombian Government was aware of the unique role played by NGOs, and condemned the murders of human rights activists as cowardly acts committed by out-of-control groups. President Samper had also made a public statement repeating his support for human rights advocates and supporting the adoption of measures to protect their lives and facilitate their work.

39. As for the self-defence groups, wrongly called paramilitary groups, the State was fighting them with the same means it used to combat guerrillas, namely, the army, the police and the law. The "Convivir" cooperatives (rural vigilante groups) had been set up at the request of the civilian population and with the support of the Government as an antidote to paramilitarism. Aware of the criticisms aimed at them, the Government would ensure that they acted within the law by issuing a decree to that effect.

40. On the question of the army, Congress currently had before it a draft reform to the Military Code of Justice developed by the Government, which provided for the introduction of the accusatory procedure, the exclusion of some particularly serious offences from the jurisdiction of military justice and the suppression of the conciliatory procedure in court martials. In the same spirit, the Constitutional Court had just rendered a judgement of the highest importance, which expressly excluded from the jurisdiction of military courts any offence committed by an off-duty soldier.

41. In conclusion, she called on the Sub-Commission to give the Colombian Government the support it needed to establish a firm and lasting peace within which all fundamental human rights were respected.

42. Mr. NAZARIAN (Observer for Armenia) said it was all the more unjust, under international law, that the principle of the territorial integrity of Azerbaijan should be given priority over the right of the Armenians of Nagorny Karabakh to self-determination, when the territory had been arbitrarily annexed to Azerbaijan in 1921 by the Soviet authorities.

43. In December 1991, the population of Nagorny Karabakh had voted overwhelmingly in a referendum for independence. Azerbaijan had immediately responded with armed aggression, causing the displacement of hundreds of thousands of people. The people of Nagorny Karabakh had successfully defended their right to exist, in accordance with the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples. Contrary to the assertions of Azerbaijan, the Charter of the United Nations did not grant the principle of territorial integrity precedence over the principle of the right to self-determination. It referred to the territorial sovereignty of States in relation to the non-use of force between States independently of the right to self-determination.

44. In conclusion, he said that the conflict in Nagorny Karabakh was not a territorial dispute between two States, namely, Azerbaijan and Armenia, but was the consequence of the refusal by Azerbaijan to recognize the legitimate right of the people of Nagorny Karabakh to self-determination.

45. Mr. AKRAM SHEIKH (Observer for Pakistan) said that the party of the Prime Minister of Pakistan, Mr. Nawaz Sharif, had been democratically elected in February 1997 by an overwhelming majority of the electorate, and was doing everything possible to guarantee full respect for fundamental freedoms and human rights. For example, Parliament had unanimously repealed the eighth amendment to the Constitution, which enabled the President to dismiss, even arbitrarily, an elected Government. It had also passed a law prohibiting members of Parliament from changing party during the legislative term, thus ending a practice which had been a source of corruption and political instability. Although it had an absolute majority, the Prime Minister's party, the Pakistan Muslim League, was seeking, in a spirit of cooperation, the support of other parties in Parliament, and the Federal Government had entered into a coalition with the Mutahida Qaumi Movement.

46. Furthermore, despite the scale of violence and terrorism in some cities, the Government had done its utmost to avoid invoking emergency powers. Law enforcement officials were held responsible for their acts, and many police officers were currently facing charges of abuse of authority or involvement in acts of violence in Karachi.

47. At the suggestion of the Chief Justice of the Supreme Court, the Government had abandoned plans to establish special courts for expeditious trials of heinous offences. The Government had also undertaken to improve prison conditions and facilitate rehabilitation of prisoners. In its concern to consolidate the independence of the judiciary, the Government was careful to ensure that judges were appointed not for political reasons but on the basis of their abilities. The legislative process for the separation of powers was almost complete. The Supreme Court had recently ruled that the ban on the formation of unions by civil aviation personnel was unconstitutional.

48. On the question of children, the Government was doing everything possible to eradicate bonded labour and exploitative child labour, and had set itself the target of having all children aged between 6 and 12 attending school within 5 years.

49. He pointed out that the incidents in Shantinagar had occurred before the current Government had taken office. All those involved in the incidents had been arrested, the victims had been duly compensated, and the houses and churches destroyed had been speedily repaired. The report of the commission of inquiry looking into the incidents had been handed to the Government a fortnight earlier and was available on request. In that connection, he pointed out that the Constitution of Pakistan guaranteed the fundamental rights of minorities and that the Prime Minister was committed to protecting the social, religious and economic interests of minorities. Pakistan was an open society in which human rights organizations could operate without hindrance. In the previous two years, the Special Rapporteur on religious intolerance and the Special Rapporteur on torture had visited Pakistan at the invitation of the Government.

50. The new Government was endeavouring to resolve the difficulties confronting it through a policy of dialogue at all levels. With regard to relations with India, an agreement had been reached on a timetable for talks with that country, in which the vital question of Jammu and Kashmir would be raised. Unfortunately, it must be said that, despite the opening of talks, there had been no let up in the repression of the people of Kashmir by the illegal occupying forces; on the contrary, it had intensified. By urging India to end its campaign of repression, the Sub-Commission could make a major contribution to the establishment of a true dialogue and to the promotion of peace and prosperity in the region.

51. Mr. ULUÇEVIK (Observer for Turkey) said that the Turkish Government had kept all the promises regarding human rights that it had made to the Sub-Commission at the previous two sessions. The Turkish Government had amended the Constitution so as to ensure greater political participation by various institutions. Article 8 of the anti-terrorist law had also been amended so as to strengthen freedom of thought and expression. As a result of that amendment, 300 people who had been convicted under the article for expressing their opinion had been released. A new law had been enacted to reduce detention periods and allow detainees to consult a lawyer at any time. That law also restricted the jurisdiction of State security courts.

52. A special unit had been set up within the Ministry of the Interior to look into alleged disappearances. The unit had already considered 187 cases of disappearances cited by the Turkish Human Rights Association and had come to the conclusion that the majority of the allegations were unfounded. The Government had also set up a "human rights coordinating committee" under the chairmanship of the minister responsible for human rights and composed of the under-secretaries of the ministries of foreign affairs, the interior and justice. Turkey continued to reply, following careful examination, to all communications on human rights violations sent to it.

53. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, in his report on a visit

to Turkey in September 1996 (E/CN.4/1997/31/Add.1), stated that the mission had enjoyed full freedom of movement and full freedom of inquiry. He further indicated that many of the alleged infringements of the right to freedom of opinion and expression did not bear close scrutiny because of the lack of precision in the details, and that others had proved to be, at best, tendentious or had manifestly sought to further political objectives to the detriment of the relevant human rights considerations. According to the Special Rapporteur, only a fraction of the allegations sent to him met basic standards of accuracy and good faith. In his concluding observations, the Special Rapporteur stressed that freedom of opinion and expression in Turkey was generally apparent from the fierce political debate, which included severe criticism of the Government, and that the press and other media were vibrant and varied. He also stated that the Turkish Government had made continuous efforts to improve the protection of human rights in general and of the right to freedom of opinion and expression in particular. He also observed that the Government faced a difficult task and bore a heavy responsibility, in its obligation to protect all citizens from the scourge of terrorism while at the same time protecting all the human rights of all the people in Turkey. Moreover, the Chairman of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on torture would be visiting Turkey at the end of 1997 and 1998, respectively.

54. The new Turkish Government, led by Prime Minister Mesut Yilmaz, was determined both to strengthen democracy and respect for human rights and to eradicate the terrorism for which the Kurdish Workers' Party (PKK) was responsible. PKK terrorism constantly violated the most fundamental human right, the right to life, with the declared aim of damaging the territorial integrity and political unity of the Republic of Turkey under cover of a well-orchestrated campaign of human rights violations.

55. Mr. PRATOMO (Observer for Indonesia) said that his Government was actively promoting all human rights, which it considered an indivisible whole, in accordance with the Indonesian Constitution and the Charter of the United Nations. Like other States, Indonesia could not claim to be totally free of human rights violations. Nevertheless, it could not accept the use of human rights as a means of pressure. The time had come for States to collaborate in the promotion of human rights. As President Suharto had recently declared, Indonesia wanted peace instead of war, dialogue instead of confrontation, cooperation instead of exploitation, equality instead of discrimination, justice instead of double standards and democracy instead of oppression.

56. In that spirit, the Indonesian Government had cooperated in the organization by the International Committee of the Red Cross of a regional seminar on humanitarian law, held in Jakarta on 29 and 30 May 1996, and had drawn up a national plan of action for human rights, pursuant to the Vienna Declaration and Programme of Action. Indonesia would also continue its bilateral cooperation with the United States of America, Canada, Sweden and Germany. The national Human Rights Commission set up in 1993 had given proof of its ability to work independently for human rights by adopting a critical and constructive approach to the consideration of the cases of human rights violations submitted to it.

57. It was regrettable that many NGOs ignored the progress made by Indonesia in the field of human rights and constantly criticized the Indonesian Government by distorting the facts. For example, some NGOs had stated a day earlier that the Netherlands and Indonesia had decided on the future of the West Papuan people without even consulting them. It was well known that the people of Iran Jaya had exercised their right to self-determination under the supervision of the United Nations. The claim that a crime against humanity was being perpetrated in Indonesia was also absurd. In response to those false accusations, he quoted an article from the New York Times of 11 July 1997, which said that Indonesia was too complex to be a pariah State. The writer added that Indonesia probably had the best macroeconomic management of any developing country, that the Indonesian Government was tolerant towards the hundreds of independent NGOs concerned with human rights and that the press was not afraid to write about human rights violations.

The meeting rose at 6 p.m.